

**CALENDAR ITEM
C09**

A 1
S 1

04/05/16
PRC 8683.1
M.J. Columbus

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

The Hurricane Bay Estates Owners Association

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in Lake Tahoe, adjacent to 201-240 Mankato Place, near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of five existing mooring buoys.

LEASE TERM:

10 years, beginning June 1, 2016.

CONSIDERATION:

\$1,885 per year with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$2,000,000 per occurrence.

Buoy Allotment Program: The use of the buoy field will be made available to all members of The Hurricane Bay Estates Owners Association, in a fair and equitable manner. A buoy allotment program must be maintained during the lease term that will identify how the buoys will be managed, maintained, and distributed for use by the Association's members.

If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization for the mooring buoys within two years after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such authorization within the time limit, they must remove the buoys.

CALENDAR ITEM NO. **C09** (CONT'D)

Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, Title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

The subject mooring buoys are for the docking and mooring of boats. Recreational boating is a water-dependent use that is generally consistent with the common law public trust doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of public trust lands (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The upland consists of eight member lots on a common parcel owned by The Hurricane Bay Estates Owners Association. The buoys are located lakeward of the upland property and occupy a relatively small area of the lake.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for public trust consistent uses. Upon termination of the lease, the Lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the Lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the use of public land. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law public trust doctrine, will not substantially interfere with public trust needs at this location, at this time, and for the foreseeable term of the proposed lease, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.

CALENDAR ITEM NO. **C09** (CONT'D)

2. On June 26, 2006, the Commission authorized a 10-year General Lease - Recreational Use to The Hurricane Bay Estates Owners Association. That lease expires on May 31, 2016. The Applicant is now applying for a General Lease – Recreational Use.
3. This proposed action is consistent with Strategy 1.1 to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
4. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

5. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

CALENDAR ITEM NO. **C09** (CONT'D)

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the public's public trust needs and values at this location, is consistent with the common law public trust doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to The Hurricane Bay Estates Owners Association beginning June 1, 2016, for a term of 10 years, for the continued use and maintenance of five existing mooring buoys as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$1,885 with an annual Consumer Price Index adjustment; and liability insurance with coverage in an amount no less than \$2,000,000 per occurrence.

EXHIBIT A

PRC 8683.1

LAND DESCRIPTION

Five (5) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 fractional Section 25, Township 15 North, Range 16 East, MDM., as shown on Official Government Township Plat approved April 11, 1884 County of Placer, State of California, and more particularly described as follows:

Five (5) circular parcels of land, being 50 feet in diameter, underlying five (5) existing buoys lying adjacent to those parcels as described in that Grant Deed recorded March 24, 2015 in Document Number 2015-0021889 of Official Records of said County.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared January 19, 2016 by the California State Lands Commission Boundary Unit.



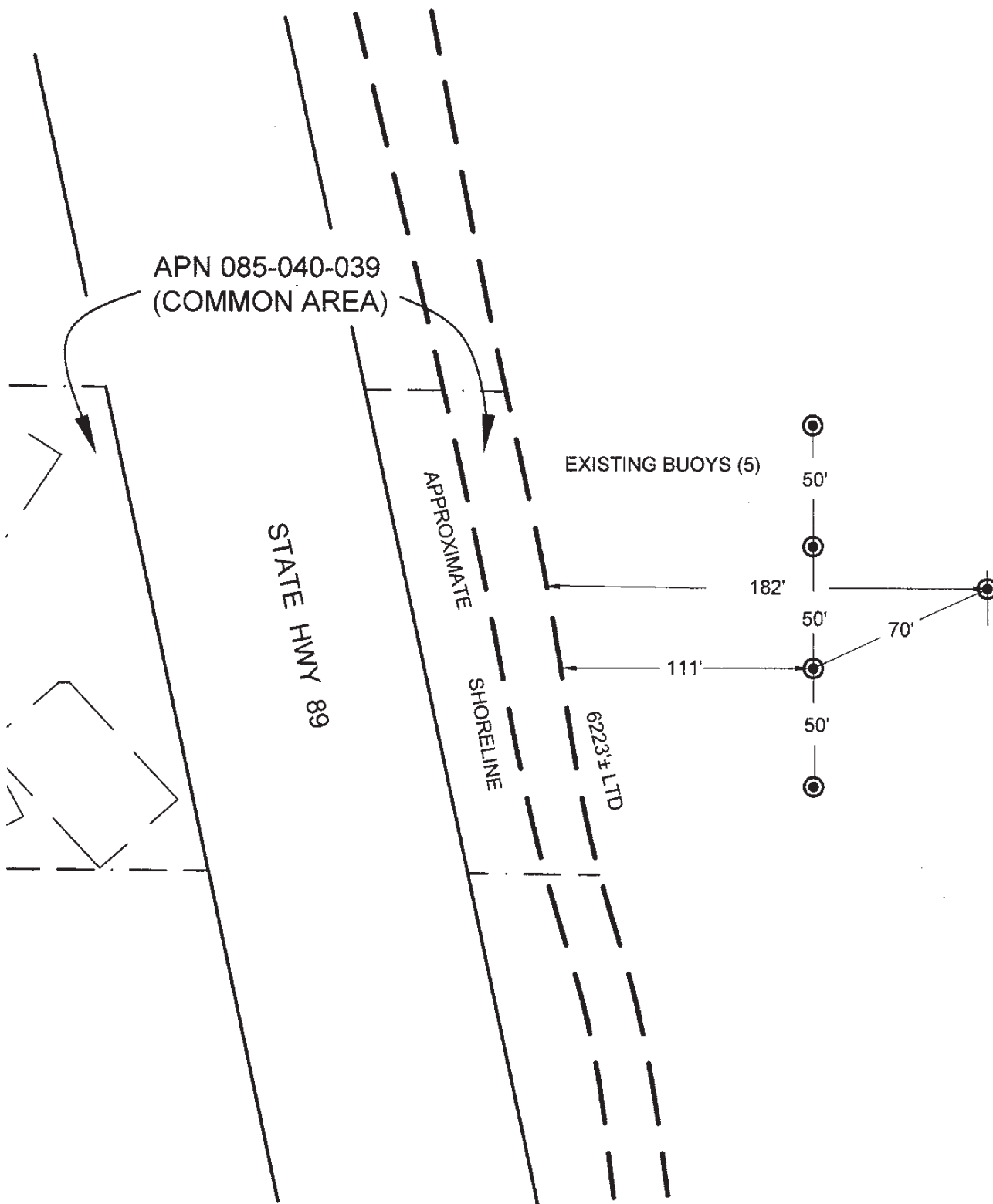


EXHIBIT A

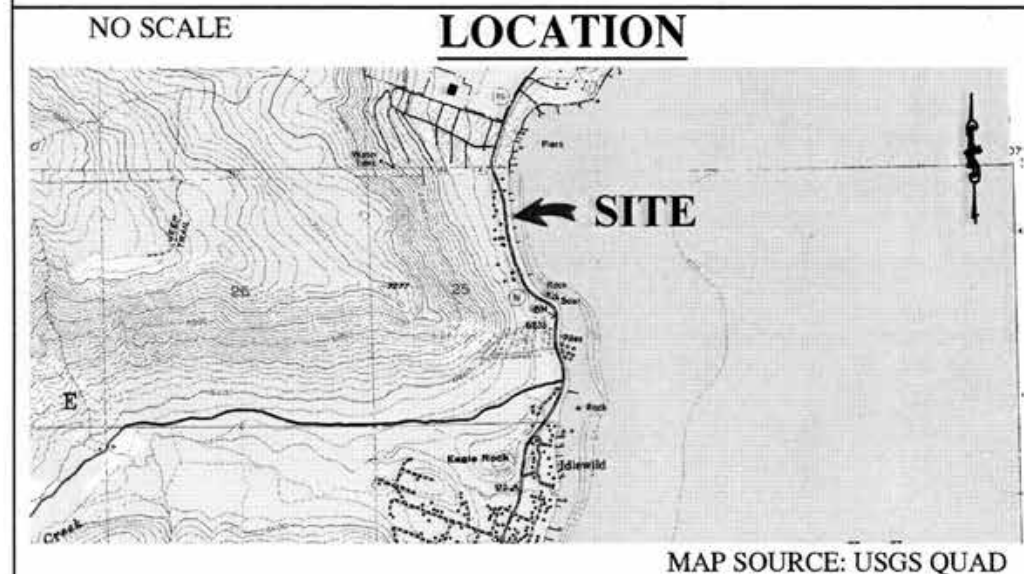
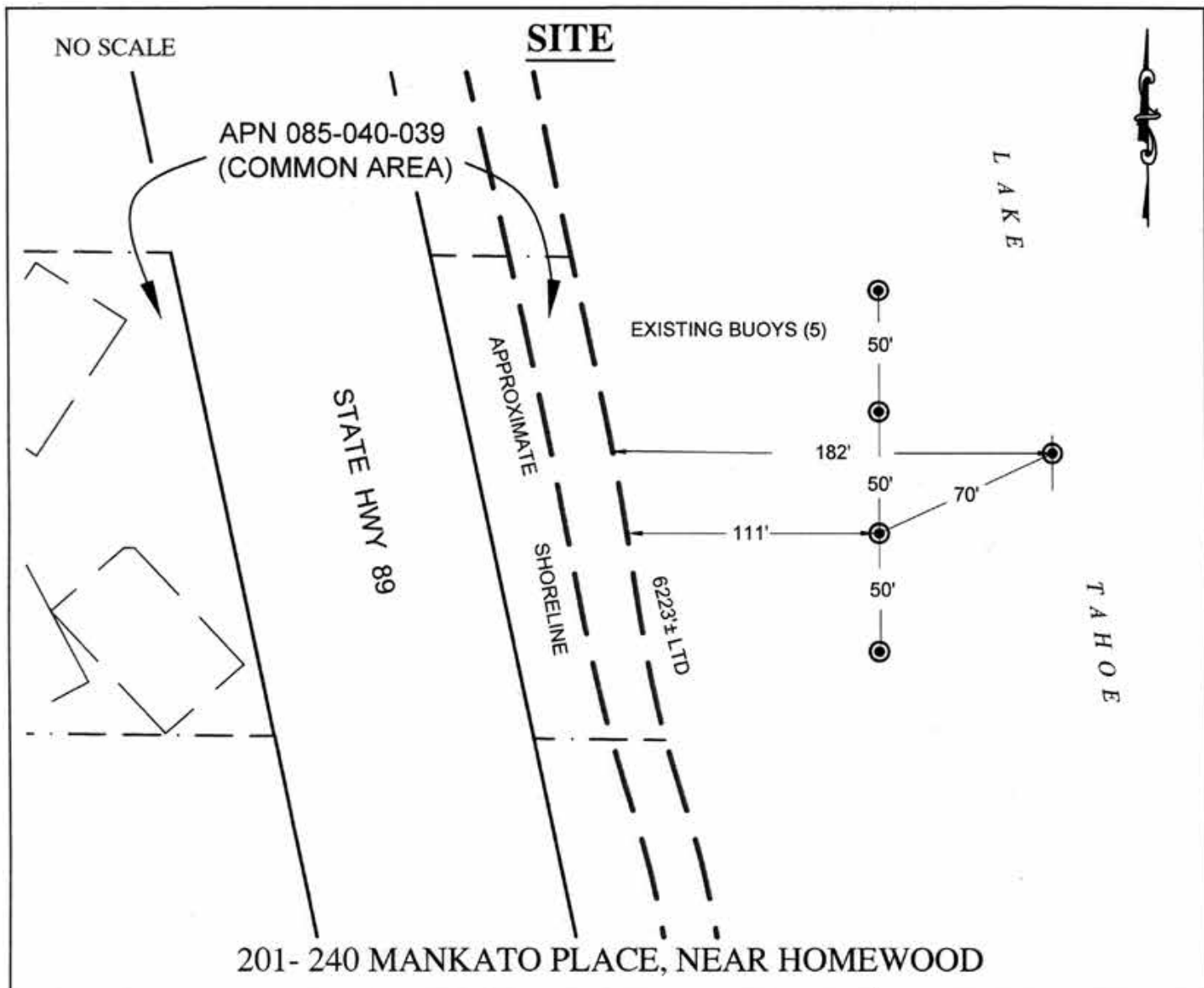
Page 2 of 2

MJJ 1/19/2016

LAND DESCRIPTION PLAT
PRC 8683.1, THE HURRICANE BAY ESTATES
OWNERS ASSOCIATION
PLACER COUNTY

CALIFORNIA STATE
LANDS COMMISSION





This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B
 PRC 8683.1
 THE HURRICANE BAY
 ESTATES OWNERS ASSOC.
 APN 085-040-039
 GENERAL LEASE -
 RECREATIONAL USE
 PLACER COUNTY



MJJ 01/19/2016